

U. S. Department of  
Homeland Security

United States  
Coast Guard



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**DEPARTMENT OF HOMELAND SECURITY**

**U. S. COAST GUARD**

**STATEMENT OF  
REAR ADMIRAL LARRY HERETH**

**ON**

**MARITIME TRANSPORTATION SECURITY ACT  
IMPLEMENTATION**

**BEFORE THE**

**SUBCOMMITTEE ON  
COAST GUARD AND MARITIME TRANSPORTATION**

**COMMITTEE ON  
TRANSPORTATION AND INFRASTRUCTURE**

**U. S. HOUSE OF REPRESENTATIVES**

**JUNE 9, 2004**



## **Rear Admiral Larry Hereth Director of Port Security United States Coast Guard**



Rear Admiral Larry Hereth is currently serving as the Director of Port Security in the Marine Safety, Security and Environmental Protection Directorate at U.S. Coast Guard Headquarters, Washington, D.C. As Director of Port Security, he is responsible for developing goals, objectives and procedures for the Coast Guard port security mission and coordinating activities with other Coast Guard programs, other government agencies and industry to improve Maritime Homeland Security and Domain Awareness.

Rear Admiral Hereth is a 1973 graduate of the United States Coast Guard Academy with a bachelor of science and he also earned an MBA from Florida Institute of Technology. In his 29 years of service, he has seen a broad-based career with an emphasis on field operations. His wide-ranging assignments have taken him throughout the United States with multiple tours at east, gulf and west coast ports.



After sea duty and command of a unit in Turkey, Rear Admiral Hereth specialized in marine safety, port operations and pollution response. He previously served as Commanding Officer of Coast Guard Marine Safety Office San Francisco Bay. As CO he held three regulatory positions: Captain of the Port; Officer in Charge of Marine Inspection; and Federal On Scene Coordinator for pollution incidents. His area of responsibility covered almost 1900 miles of coastline or inland waterways in the northern half of California and extended shoreward beyond Lake Tahoe. Prior to being assigned to San Francisco, he served in Coast Guard Headquarters as program manager for all Coast Guard oil and hazardous substance pollution preparedness and response activities. Other tours included Commanding Officer, Gulf Strike Team; Alternate Captain of the Port in New York; Chief, Port Operations in New Orleans; and as Chief of the Coast Guard's National Marine Environmental Response School where he supervised all the pollution response courses and directed a national exercise program.

He has received numerous personal awards throughout his career, including the Department of Transportation Secretary's Gold Medal Award and the Meritorious Service Medal with the Operational Distinguishing Device and three gold stars.

He is a native of Cincinnati, Ohio and is married to the former Kathy Hays of Hillsboro, Oregon. Kathy works as a dental hygienist.

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Good morning Mr. Chairman and distinguished members of the Committee. It is a pleasure to appear before you today to discuss the Coast Guard's efforts in implementing the Maritime Transportation Security Act of 2002 (MTSA).

Introduction

When the president signed the MTSA on November 25, 2002, landmark legislation was enacted that establishes, for the first time, a mandatory security regime within the Maritime Sector focused on reducing the vulnerabilities of our Maritime Transportation System. Since its enactment, the Coast Guard has worked diligently to not only implement the robust provisions of the Act, but to also lead our international trading partners through the International Maritime Organization (IMO) in the development and implementation of a global strategy on maritime security. In my testimony today, I will provide you with an update on both our domestic and international efforts.

MTSA Implementation

The MTSA imposed an ambitious schedule of requirements on a number of Federal agencies. The Secretary of Homeland Security tasked the Coast Guard with lead responsibility for the majority of the Act's requirements, and I'm pleased to report to you today that we are well poised to meet all of our mandated deadlines.

In the first year after the MTSA was enacted, the Coast Guard published six interim final rules taking into account comments received through a series of seven public meetings throughout the country. Four months after the release of the interim rules, the Coast Guard published its final rules that considered comments from the maritime industry and the public. This was a significant accomplishment for the Coast Guard to publish, in final form, its implementing regulations within the one-year of the passage of the Act, and I'm very proud of the men and women of the Coast Guard that worked so diligently to make this happen. The Coast Guard was aided in our efforts by a very supportive interagency team including Customs and Border Protection (CBP), the Transportation Security Administration (TSA), and the Maritime Administration (MARAD), and by the cooperation and meaningful comments received by the maritime industry. Approximately 9,200 vessels and 3,200 facilities were captured under the implementing regulations and over 99 percent have now complied with the rules by submitting a security plan to the Coast Guard. We are now in the midst of a significant plan review and approval process. The implementation of all of these security plans will mark a tremendous step forward in reducing the vulnerabilities of our ports and waterways while providing secure trade lanes that are essential to our economic prosperity.

With only three weeks remaining before the July 1<sup>st</sup> compliance date, the Coast Guard is wrapping up its efforts to ensure that all security plans appropriately document the required security measures and shifting focus on our task of fully exercising our Port State Control Authority in the conduct of compliance examinations for foreign flagged vessels to confirm that approved security plans have been fully implemented.

Aggressive implementation of MTSA is essential if we are to maintain the security of our ports and waterways at acceptable levels. To implement and enforce these regulations, the Coast Guard has a recurring requirement to develop, review, approve, and ensure vessels and facilities are sustaining their own security responsibilities for all aspects of maritime security.

#### Port Security

The Coast Guard, working through the Captains of the Ports (COTPs), has developed 43 Area Maritime Security Plans covering the 361 ports, Great Lakes, Inland Rivers and Outer Continental Shelf region. COTPs are designated as the Federal Maritime Security Coordinator (FMSC) under the MTSA, and it is in this capacity that they have steered and coordinated the development of these plans.

Area Maritime Security Committees, comprised of the other Federal, state, and local agencies, and members of the local maritime industry, were established to assist the local COTPs in the development of their security plans. While the establishment of these Committees was optional under the MTSA, the Coast Guard determined that communication with other maritime stakeholders was an integral part of the security equation and required their establishment. As a result, these committees are enhancing the exchange of communications between the Coast Guard, local agencies and the maritime stakeholders, and it is through this cooperative spirit that the Coast Guard has developed coordinated, comprehensive Area Maritime Security Plans.

Each FMSC submitted their Area Maritime Security Plan to the Coast Guard District Commander by May 1, 2004, representing 100 percent completion. Subsequently, each plan has been favorably reviewed and endorsed by the District Commander and forwarded to the Atlantic and Pacific Area Commander as appropriate for final approval. All Area Maritime Security Plans were approved by June 1, 2004 and they will be fully implemented on or before July 1, 2004 as directed by the MTSA.

#### Domestic Port Security Assessment Program

The Coast Guard has completed comprehensive Port Security Assessments at 19 of the top 55 most significant military and economic ports in the U.S. and will complete the assessments of the remaining 36 ports by the end of calendar year 2004. These assessments will augment those port security risk assessments conducted at the local port and facility level and will continue to enhance the level of preparedness outlined in our Area Maritime Security Plans.

#### Facility Security

A major component of the MTSA involves the security of facilities within our ports. In implementing the MTSA, the Coast Guard identified approximately 3,200 marine facilities that could be involved in a Transportation Security Incident. Nearly all of these facilities have since conducted a self-assessment and submitted a facility security plan to

the Coast Guard for approval. To date we have completed the review of over 90 percent of the facility security plans. The remaining 10% will be completed prior to the July 1<sup>st</sup> deadline.

#### Vessel Security

Vessel security is also a major component of the MTSA. Under the implementing regulations, over 9,200 vessels were required to develop and submit security plans to the Coast Guard. I'm pleased to report that over 99 percent of those vessels have conducted self-assessments and have submitted plans to the Coast Guard. To date, the Coast Guard's Marine Safety Center has approved over 90 percent of those plans. The remaining 10 percent are nearing the final approval stage, and I anticipate that all plans will be approved before July 1, 2004. Once a Vessel Security Plan is approved, the U.S. Coast Guard will verify the ship's compliance with the provisions of the MTSA during an onboard examination. Vessels that have declared their intent to sail internationally will be issued an International Ship Security Certificate (ISSC) in accordance with the Safety of Life At Sea (SOLAS) Convention.

#### National Maritime Transportation Security Plan

Vessel and facility security plans are written to be consistent with the Area Maritime Security Plan, which will be implemented in conjunction with the National Maritime Transportation Security Plan, the Transportation Sector Specific Plan, and the larger National Critical Infrastructure Plan mandated by Homeland Security Presidential Directive 7. The initial timeline for the development of the National Maritime Transportation Security Plan spans two years with development of the final plan by the end of fiscal year 2005. The Coast Guard is using an inter-agency development team similar to the approach taken for developing MTSA regulations. The initial national plan inter-agency coordination meeting was held on February 11, 2004, and regular inter-agency working group meetings commenced on April 22, 2004.

#### AIS and Long Range Vessel Tracking

MTSA regulations require certain commercial vessels to install an Automatic Identification System (AIS) by the end of 2004. The Coast Guard is on schedule to have AIS capabilities at each Vessel Traffic Service by this date and is diligently working toward our long-term goal of nation-wide AIS coverage.

The Coast Guard has also instituted measures to expand surveillance beyond the reaches of AIS and to increase Maritime Domain Awareness – a combination of intelligence, surveillance, and operational information to build as complete a “Common Operating Picture” as possible of the threats and vulnerabilities in the maritime realm. The Coast Guard is evaluating a variety of options for tracking vessels on the high seas and will continue to press to push our virtual borders out to provide a protection and awareness buffer zone.

#### International Ship and Port Facility Security Code

On December 12, 2002, the IMO adopted amendments to the SOLAS Convention that incorporated a new International Ship and Port Facility Security (ISPS) Code. The SOLAS Convention is the most important of all treaties dealing with maritime safety and security. 147 nations are party to the SOLAS Convention, and those nations combined represent over 98 percent of the world's shipping tonnage. The security amendments to

the SOLAS Convention were done at the behest of the United States and are based, largely, on U.S. input that is commensurate with the provisions of the MTSA. The international security regime requires vessels and port facilities to submit security plans to their respective administrations for approval and requires all vessels and port facilities to have implemented those plans by the mandatory July 1, 2004 entry into force date.

At our most recent meeting with the IMO, held just two weeks ago, the vast majority of nations have reported that they will meet the entry into force date and their ships and port facilities will be acting under approved security plans. Each country is required to report to the IMO the status of their compliance with the SOLAS Convention and the ISPS Code on or before July 1, 2004, through the use of a shared database. In this way, the Coast Guard will be able to determine which vessels and port facilities are reported to be in compliance. This will be a useful tool in assisting the United States in the execution of an aggressive Port State Control Program.

To assist other nations in ensuring that vessels that visit their countries are in full compliance, the IMO recently adopted stringent control and compliance guidelines that invite other Contracting Governments to exercise effective port state control programs to ensure that the provisions of the ISPS Code have been fully implemented.

#### Port State Control and the International Port Security Program

An effective Port State Control program is paramount to ensuring the security of our ports. The Coast Guard drafted extensive foreign vessel security boarding policy doctrine and has dedicated a significant number of personnel and the training resources necessary to ensure we are fully prepared to exercise our Port State Control Authority to its fullest extent. Each foreign flagged vessel arriving in U.S. ports will be required to demonstrate that it has fully implemented the security measures of the SOLAS Convention and the ISPS Code. To accomplish this task, the Coast Guard has trained more than 500 inspectors and positioned additional personnel, through the use of Title 10 reservists, throughout the country to assist our permanent active duty staff in accomplishing this critical task.

Additionally, the Coast Guard has met with nearly 60 countries representing the vast majority of foreign flagged ships arriving in the U.S., reinforcing our commitment to the ISPS code and clarifying our zero tolerance policy for ships intending to enter U.S. ports. Foreign flagged ships that cannot provide advance certification that they have implemented a Ship Security Plan through the issuance of an International Ship Security Certificate will not be allowed to enter U.S. ports. Additional Port State Control efforts will include tracking the performance of all owners, operators, flag administrations, recognized security organizations, charterers, and port facilities. High-risk vessels will be subject to a range of control measures, which could include denial of entry into port or the requirement for an at sea boarding that includes a security sweep of the vessel. The United States will be vigilant in its Maritime Homeland Security mission and will continue to work with the IMO to secure the global maritime transportation system.

As you are all well aware, HR 2443, the "Coast Guard Authorization Act of 2004" contains a provision that would expressly require foreign vessels to submit security plans to the Coast Guard for review. This provision runs counter to the SOLAS Convention and the ISPS Code and, if enacted, would detract from, rather than enhance, maritime

security. Conversely, the Coast Guard believes it is much more important to board a vessel to see, first hand, if required security measures have been implemented rather than reviewing unverified paperwork that indicates that measures are in place. On-site examination is the only method that verifies a vessel has proper security measures in place.

An aggressive Port State Control regime will be coupled with the Coast Guard's inter-agency International Port Security Program (IPSP), required under the MTSA. In this effort, representatives from the Department of State, Department of Defense, CBP, TSA, and MARAD, are assisting the Coast Guard in assessing both the effectiveness of anti-terrorism measures in foreign ports and the foreign flag administration's implementation of the SOLAS amendments and the ISPS Code.

Full deployment of the IPSP Code will greatly enhance the Coast Guard's port security posture by identifying and correcting weaknesses overseas thus increasing our ability to prevent potential threats from reaching U.S shores.

#### Mariner Credentialing

Inherent in a safe and secure marine transportation system are appropriate safeguards for merchant mariner documents, licenses, and port workers credentials. The U.S. successfully negotiated an international agreement that provides assurances for the identification of seafarers that will enter U.S. In June 2003, the International Labor Organization adopted ILO 185, a revised Convention on Seafarer Identity Documents. The new identity documents will contain a biometric indicator based on a uniform, international standard, to significantly enhance tamper resistance. It will also be linked to national databases to verify the legitimacy of the document. The standards and procedures contained in this Convention will fulfill the requirements for uniform, verifiable identification for seafarers required under the MTSA. However, the Convention also specifies that, for purposes of shore leave or transit, seafarers holding a new identity document will *not* be required to hold a visa. This provision is inconsistent with U.S. immigration law and may prevent the United States from ratifying the Convention. However, the U.S. may still adopt, through regulation, the technical specifications outlined in ILO 185 Convention in order to further meet the requirements of MTSA.

The Coast Guard is also tracking the progress made by the TSA in the development of the Transportation Worker Identification Credentials (TWIC) Program. As an interim measure, until the TWIC program is fully developed, the Coast Guard included a requirement in the MTSA implementing regulations for access control for vessels and facilities that mandates checking the identification of individuals seeking to enter facilities and to board vessels.

#### Summary

The MTSA has dramatically raised the security bar with which U.S. and foreign interests must comply. It has also been the vehicle through which many international negotiations have taken place. Aggressive implementation of MTSA is essential if we are to maintain the security of our ports and waterways at acceptable levels.

A cooperative international approach to establishing, maintaining, and enforcing, security standards involves global partnerships and it is through these partnerships that we will successfully implement a new global security regime. With all parties acting collaboratively we will confront, broadly, the defined threats to our common and interdependent maritime security. We must continue to work globally to improve security domestically.

I urge your support of the Coast Guard's fiscal year 2005 budget request, which provides for increased capability and capacity directly supporting maritime security. Specifically, the request includes \$101 million in new resources to implement the MTSA. It provides for crucial field resources to review, approve and verify implementation of the approximate 9,200 domestic vessel, 3,200 domestic facility, and 43 domestic port security plans as well the verification of security plan implementation on over 8,100 foreign vessels calling on U.S. port annually. It provides for critical increases in intelligence capabilities to enhance Maritime Domain Awareness. It provides for new and expanded capabilities, including underwater threat detection, for the highly successful Maritime Safety and Security Teams, which were incepted in the days immediately after the attacks of September 11<sup>th</sup>, 2001 to counter emerging threats. Finally, the request provides for critical funding for the Deepwater, Rescue 21, Automatic Identification System and Response Boat-Medium projects critical to recapitalize operational assets crucial to America's homeland security not just today but for decades to come.

Thank you for the opportunity to testify before you today. I will be happy to answer any questions you may have.

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